IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

Notice of Motion No.123 of 2005

In

Suit No.32 of 2005

Girishchandra Gupta .. Plaintiff

V/s

Mrs.Aparna Mahbakhth Kotwal..Defendant

Mr.Pankaj Bhatt for Plaintiff

Mr.Clive D'Souza for Caveator

CORAM:S.R.SATHE,J.

DATED:19th Nov. 2005

P.C.:-

1. Heard both the learned Advocates. Perused the papers. From the perusal of the record and submission made before me it is very clear that admittedly some assets mentioned in Schedule no.1 of petition were transferred by brother of deceased to her and account NO.134279 was also in the joint names of the deceased and Plaintiff. The plaintiff is father of caveatrix. The Plaintiff has admitted that after death of his wife the said account was closed and amount standing at the credit of the said account has been transferred to his

own account. Admittedly, the flat mentioned in Schedule No.1B was also standing in the name of deceased, and present plaintiff was shown as nominee. However, after her death the Plaintiff got transferred the said flat in his name. According to the plaintiff he has given the list of jewelry articles which were kept in the locker standing in the joint name of the deceased and plaintiff.

2. Admittedly deceased has left behind her husband i.e. plaintiff and two daughters including caveatrix.

3. In order to protect the interest of the present applicant caveatrix it is necessary to restrain the plaintiff Girishchandra Gupta from disposing of the money, jewellery and flat etc. mentioned in Schedule I, hence Notice of Motion is made absolute in terms of prayer clause (a).

4. So far as prayer for appointment of Receiver is concerned it is not necessary to appoint receiver at this stage. However, the Plaintiff is directed to deposit with the Prothonotary and Senior Master, High Court, Bombay the documents mentioned in Schedule I.

4. So far as the amount which has been transferred from the joint account of the deceased to plaintiff's own account is concerned the same be also deposited by Girishchandra Gupta with Prothonotary and Senior

Master, High Court,Bombay within a week.

5. The plaintiff should not withdraw interest on the dividends/shares/fixed deposits and S/B A/cs mentioned in Schedule I till the disposal of petition No.537 of 2004.

(S.R.SATHE,J.)